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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/869,337	10/17/2001	Yukihiro Kihara		7712

23364 7590 07/28/2005

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ALEXANDRIA, VA 22314

EXAMINER

BEFUMO, JENNA LEIGH

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/869,337

Applicant(s)

KIHARA ET AL.

Examiner

Jenna-Leigh Befumo

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 2-14 is/are pending in the application.
- 4a) Of the above claim(s) 2,4 and 7-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3,5,6 and 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Amendment***

1. The Amendment submitted on April 29, 2005, has been entered. Claim 1 has been cancelled. Claim 14 has been amended. Therefore, the pending claims are 2 – 14. Claims 2, 4, and 7 – 13 are withdrawn from consideration as being drawn to a nonelected invention.
2. The substitute specification filed April 29, 2005 has been entered. The substitute specification is sufficient to overcome the objection to the specification set forth in the previous Office action.
3. Based on the applicant's arguments (response, page 7), the term "stuck" is interpreted as occurring during the extrusion process of a bicomponent fiber wherein different components, or types of materials, are connected together to produce a bicomponent fiber. These components will continue to be "stuck" together in this form until the fiber undergoes an additional processing step which splits the components apart via a chemical or physical treatment. Thus, the 35 USC 112 1<sup>st</sup> paragraph rejection of the term "stuck" is withdrawn.
4. The 35 USC 112 1<sup>st</sup> paragraph rejection of the term "exfoliated" is withdrawn since the term has been removed from the claim. However, it is noted that the applicant's response, (page 7) equates exfoliating to the splitting process and further states that the splitting step produces the uneven surfaces with microfibrils on the split surfaces. Based on this explanation all split fibers will be presumed to inherently have an uneven surface with microfibrils. However, the disclosure (page 12, line 27 – page 13, line 10) teaches that the plasma treatment applied to the exfoliated surfaces forms the unevenness and not the splitting (or exfoliating) treatment itself.

Art Unit: 1771

5. The 35 USC 112 2<sup>nd</sup> paragraph rejections of the terms “woven” and “exfoliating” are withdrawn since the terms has been removed from the claim language. Additionally, the amendment to claim 14 has clarified what structure is formed by sticking, so the rejection set forth in section 9 of the previous Office Action is withdrawn.

***Claim Objections***

6. Claim 14 is objected to because of the following informalities: the claim is grammatically awkward with phrases like “nonwoven fabric is produces” and “formed by splittable the sticking”. The tense of the verbs in the claim is not consistent and in some cases the language appears to be missing words. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claims 3, 5, 6, and 14 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Gillespie et al. (5,783,503) in view of Kuraray (JP 402289220, JP 2293457, or JP 02091219) and either Chen (6,395,957), Dugan et al. (6,093,491), or Takai (5,356,572) for the reasons of record.

***Response to Arguments***

9. Applicant's arguments filed April 29, 2005 have been fully considered but they are not persuasive. The applicant argues that the prior art does not provide sufficient motivation to combine the prior art references and produce the claimed product (response, page 8). In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching,

Art Unit: 1771

suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In this case, the primary reference, drawn to a nonwoven fabric made from bicomponent fibers, is modified by additional references which teach methods of producing fabrics with excellent water absorbency and dirt removal properties. First, Gillespie et al. discloses a nonwoven fabric made from splittable bicomponent fibers which can be further modified or treated to improve the fabrics hydrophilicity properties. Also, Gillespie discloses that the fabric can have various uses where hydrophilicity is important such as wipes and personal absorbent products. The multiple secondary patents in some way disclose modifying or treating a fibers surface to improve the hydrophilicity and water absorption of the fibers. Hence the motivation to combine references is to improve the hydrophilicity of the fibers to make them useful in water absorbing applications such as personal care articles and wipes or cleaning cloths. Hence, the motivation is found within the references and the applicant's statement that the prior art references do not suggest the combination is not supported with reasons why these references cannot be combined to produce the claimed invention. The arguments of counsel cannot take the place of evidence. *In re De Blauwe*, 736 F.2d 699, 705, 222 USPQ 191, 196 (Fed. Cir. 1984). The applicant must provide some reason why the motivation already set forth in the rejection and above would not be sufficient to combine the cited references and produce the claimed product. Therefore, the rejection is maintained.

### ***Conclusion***

Art Unit: 1771

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

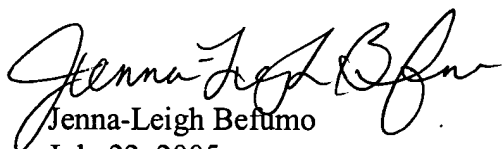
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

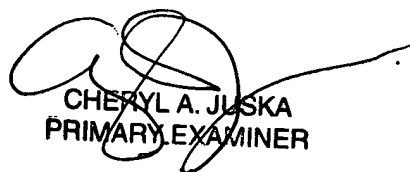
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna-Leigh Befumo whose telephone number is (571) 272-1472. The examiner can normally be reached on Monday - Friday (8:00 - 5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1771

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jenna-Leigh Befumo  
July 22, 2005

  
CHERYL A. JUSKA  
PRIMARY EXAMINER